

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CARLA MANIGAULT,

Plaintiff,

-against-

MACY'S EAST, LLC, and TERRY  
WHITTAKER,

Defendants.  
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*Appearances:*

*For the Plaintiff:*

SAUL D. ZABELL, ESQ.  
Zabell & Associates, P.C.  
4875 Sunrise Highway, Suite 300  
Bohemia, NY 11716

*For the Defendants:*

ALLISON K. ROMANTZ, ESQ.  
RONALD S. ALLEN, ESQ.  
Morgan, Brown & Joy LLP  
200 State Street  
Boston, MA 02109

**BLOCK, Senior District Judge:**

The Court denied Defendants' motion to compel arbitration on August 28, 2007. Defendants now seek to stay discovery pending appeal of that order to the Second Circuit.<sup>1</sup>

The Second Circuit has "explicitly adopt[ed] the . . . position that further district court proceedings in a case are not 'involved in' the appeal of an order refusing arbitration, and that a district court therefore has jurisdiction to proceed with a case absent a stay from this Court." *Motorola Credit Corp. v. Uzan*, 388 F.3d 39, 54 (2d Cir. 2004). As the Circuit Court has not stayed these proceedings, this Court retains jurisdiction. "[T]he

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<sup>1</sup>We deem the Defendants' letter of September 19, 2007, to be a motion to stay discovery, and Plaintiff's letter of September 26, 2007, to be an opposition to Defendants' motion.

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT, E.D.N.Y.

★ JAN 20 2008 ★

BROOKLYN OFFICE  
**ORDER**  
Case No. 06-CV-3337 (FB)

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power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. North American Co.*, 299 U.S. 248, 254 (1936).

Defendants’ appeal has not yet been calendared; indeed, the earliest that it could be calendared, according to the Clerk of the Second Circuit, is March 2008. Further, whether this matter ultimately progresses before this Court or in an arbitral forum, information adduced through discovery will be useful to the litigants. For these reasons, the Court declines to stay discovery pending appeal. Future inquiries as to discovery obligations should be addressed to Magistrate Judge Cheryl Pollak.

**SO ORDERED.**

/signed/

  
FREDERIC BLOCK/  
Senior United States District Judge

Brooklyn, New York  
January 25, 2007